

PERSONNEL POLICY  
Fauquier County, Virginia

Effective Date:

Policy Title:

Section No.:

09+/152203/88

Resignations, Separations  
and Re-Employments

25

Supersedes Policy:  
New

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**I. PURPOSE**

It is the objective of the Board of Supervisors to identify types of separation from County Government employment.

**II. SCOPE**

This policy applies to all employees.

**III. DEFINITIONS**

**A. Dismissal**

Dismissal is defined as the involuntary separation of a probationary employee or other employee who has no appeal rights.

**B. Lay-off**

Lay-off is defined as separation from County Government employment as a result of lack of funds or work and/or the elimination of one or more program functions.

**C. Resignation**

Resignation is defined as the voluntary separation of an employee from County Government service.

**D. Retirement**

Retirement is defined as separation from County Government employment wherein an eligible employee receives a fixed benefit payment. The amount of the benefit is based on the employee's years of service, age at retirement, and the average of the employee's 36 consecutive months of highest salary.

**F. Unsatisfactory Service Separation**

Unsatisfactory service separation is defined as the involuntary separation of an employee, who has appeal rights, for unsatisfactory performance or violations of policy.

#### IV. PROCEDURES

##### A. Types of Separations

#### I. SEPARATIONS

1. Employee — ~~All separations shall be of employees from positions in the competitive service shall be~~ designated as one of the following types:

- a. death;
- b. dismissal;
- c. layoff;
- d. resignation;
- e. retirement; or
- f. unsatisfactory service separation.

- ~~1. Resignations (also to be used for retirement);~~
- ~~2. Lay-off;~~
- ~~3. Dismissal (used for separations during probationary periods);~~
- ~~4. Unsatisfactory service;~~
- ~~5. Disability; and~~
- ~~6. Death~~

#### II. OTHER ADVERSE ACTIONS

~~A. In addition to separations for disciplinary purposes provided for herein, County appointing authorities any impose other appropriate adverse actions on employees in the County service, as listed below:~~

- ~~1. Demotion~~
- ~~2. Transfers for disciplinary purposes~~
- ~~3. Suspension without pay~~
- ~~4. Administrative leave for disciplinary purposes~~
- ~~5. Formal oral or written reprimands~~

~~B. Transfers and administrative leave may occur for non-disciplinary reasons, and, when so imposed, shall not be considered adverse actions. Lay-offs are not adverse actions.~~

~~C. Only appointing authorities may impose adverse actions under this Personnel Policy section. Subordinate supervisors may impose adverse action if such~~

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~~\_\_\_\_\_ actions are ratified by the appointing authority prior to imposition by the subordinate supervisor.~~

~~D. Adverse actions shall be commensurate with the gravity of the offense and shall generally follow the Rules of Employee Conduct established in Section Number 3 of the Personnel Policy. Nothing in that section, however, prevents less severe adverse action than listed, if the circumstances warrant.~~

B. Death

The death of an active employee shall be reported to the Human Resources Director as soon as a department is aware. All payments due the deceased employee shall be made "to the estate of" said employee.

C. Dismissal

1. In situations of dismissal, whenever possible, the employee shall be given advance notice of the dismissal.
2. An employee who is dismissed shall be entitled to payment for compensatory leave; shall not be entitled to any accrued but unexpended sick leave; and may be entitled to accrued annual leave in accordance with policies governing leave and upon approval of the employee's Department Head/Constitutional Officer.

D. Layoff

1. An employee may be laid-off as a result of lack of funds or work and/or the elimination of one or more program functions. Such lay-off may result from policy decisions made by the Board of Supervisors, program modifications, or funding shortfalls.
2. Specific regulations for lay-offs are set forth in the Reduction in Force policy

E. Resignation

### III. RESIGNATIONS

1.A. It is the responsibility of an employee who plans to resign ~~from the~~  
~~competitive service~~ to notify his/her immediate supervisor, in  
writing, at least ten working days prior to the last day of work.

2.B. An employee who resigns without satisfactory notice and thereby,  
in the opinion of the appointing authority, impairs the effectiveness  
of work processes, ~~the competitive service~~ shall have his/her  
separation designated as unsatisfactory. ~~service or dismissal~~  
~~according to the policy governing such separations.~~

C. 3. An employee who resigns without satisfactory notice, may lose ten  
days of credited annual leave, but ~~shall will~~ be paid for any  
accumulated annual leave in excess of ten working days, up to the  
annual leave payout maximim.

D. 4. ~~An e~~Employees who resigns with required notice, shall receive  
payment for ~~all~~ annual leave, sick leave and compensatory leave  
for which he/she they is ~~are~~ eligible according to the policies  
~~governing~~ such leave.

### IV. REINSTATEMENT AFTER RESIGNATION

~~A. A full time permanent employee who resigned in good standing, may, within~~  
~~one (1) year following the resignation date, be reinstated to a vacant position~~  
~~of the same class without competition, provided that no other employee in the~~  
~~class to which such person is being returned shall be demoted or laid off in~~  
~~order to make such reinstatement possible. After a period of one (1) year, the~~  
~~same procedure as for a new appointee would apply.~~

~~B. All service time as a full time permanent County employee will be considered~~  
~~for purposes of annual leave accrual rate, if reinstated within one (1) year~~  
~~following the resignation date. This service time includes total service,~~  
~~whether it be continuous or interrupted.~~

#### F. Retirement

##### 1. No Mandatory Retirement Age

There is no mandatory retirement age for employees, except for  
sworn members of the Sheriff's Office who are required to retire  
upon reaching seventy (70) years of age.

##### 2. Disability Retirement

- a. Any employee, regardless of years of service, is eligible to apply for disability retirement while employed or within 90 days after termination, so long as:
  - a1. while employed, the employee acquires a disabling condition that is likely to be permanent, as documented by a physician; and
  - a2. the condition prevents the employee from performing his or her job.
- b. The amount of disability benefits shall vary according to an employee's years of service and age.

3. Retirement as an Alternative When an Employee Becomes Unable to Perform the Job

- a. If an employee becomes mentally or physically incapable of performing his or her job, and there is no reasonable accommodation, including through transfer or demotion to another position, that will enable the employee to perform the job, the County may require the employee to apply for disability or early retirement.
- b. If an employee, such as one described in section F.4.a. above, declines disability or early retirement the County may apply the Standards of Conduct policy to address unsatisfactory performance

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G. Unsatisfactory Service Separation

V. ~~UNSATISFACTORY SERVICE SEPARATION~~

1. ~~A.~~—Unsatisfactory service separations may be imposed for violation of the County policies and for less than satisfactory job performance. Personnel Policy as reflected and specified in section #3 of the Personnel Policy manual. The list of violations in section #3 must be understood to be illustrative, and not all inclusive. An appointing authority may take other adverse actions against an employee when acts or failures to act such as those listed in section #3 are not sufficiently severe to warrant unsatisfactory service separation. No appointing authority, however, shall be required to take lesser adverse action if circumstances warrant separation.

2. ~~B.~~~~An~~—~~E~~Employees separated for unsatisfactory service ~~is~~~~are~~ entitled to an advance notice of ten working days unless immediate separation is required for the good of the County service. The employee's' Department Head/Constitutional Officer

~~\_\_\_\_\_ appointing authority will~~ have the option to compensate the  
~~\_\_\_\_\_ employee for ten working days in the event that an immediate~~  
~~\_\_\_\_\_ separation action is necessary.~~

~~Specific reason will be submitted in writing and will accompany the Personnel  
Action Notification form for inclusion in the employee's personnel file.~~

~~C. An employee who receives an unsatisfactory service separation may be  
eligible for re-employment with the County in accordance with the guidelines  
set forth in paragraph X of this section and upon the approval of the Personnel  
Director and the County Administrator.~~

~~3.D. An Employees separated as a result of unsatisfactory service under  
these provisions shall not be entitled to payment of compensatory  
leave; shall not be entitled to any accrued but unexpended sick  
leave; and, but may be entitled to accrued annual leave in  
accordance with the policies governing such leave these regulations  
and upon approval of the employee's Department  
Head/Constitutional Officer appointing authority.~~

~~4.E. The Human Resources Personnel Director must review and concur  
in all unsatisfactory service separations prior to such separations  
becoming final.~~

#### ~~VI. LAY OFFS~~

~~Employees may be laid off as a result of a lack of work or funds. Such lay offs  
may result from policy decisions made by the Board of Supervisors, program  
modifications, or funding shortfalls. Specific regulations for lay offs, i.e.,  
reductions in force are set forth in the County Personnel Policy.~~

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#### ~~VII. DISMISSALS~~

~~A. Dismissals shall be the sole method of termination of probationary employees or  
other employees not covered by State or local grievance procedures. No reason for  
dismissal of any such employee need be given.~~

~~B. Whenever possible, the employee shall be given advance notice of dismissal. The  
Personnel Director must review and concur in all dismissals prior to such actions  
becoming final.~~

- C. ~~Employees who are dismissed under these provisions shall not be entitled to any accrued but unexpended sick leave upon separation but may be entitled to accrued annual leave in accordance with this policy and upon approval of the employee's appointing authority.~~
- D. ~~Employees who are dismissed may be eligible for re-employment with the County's competitive service in accordance with the guidelines set forth in paragraph X of this section and upon approval of the Personnel Director.~~

#### ~~VIII. DISCIPLINARY ACTIONS~~

~~Any member of the competitive service may be subjected to disciplinary actions other than unsatisfactory service separations or dismissal, for any cause which would justify termination for unsatisfactory service, when such acts or failures to act are of a less serious nature than that which would be sufficient to warrant separation. Consequently, any member of the competitive service may be subjected to any adverse action identified in paragraph II, above, when there is cause therefore. Such employees shall be entitled to notice in writing of the grounds for any such action, and, where authorized by the County Personnel Policy, shall be entitled to pursue a grievance in accordance with the guidelines set forth in section #41 of the Personnel Policy Manual.~~

#### ~~IX. SUSPENSION~~

- A. ~~An employee may be suspended without pay for disciplinary reasons for such length of time as the appointing authority considers appropriate, not to exceed thirty (30) calendar days. If an employee again becomes subject to disciplinary action within twelve (12) months after being suspended, he shall be separated for unsatisfactory service rather than suspended, in accordance with this policy.~~
- B. ~~Written notice by use of the PAN form, stating the reason for the suspension and indicating the exact dates thereof shall be submitted to the Personnel Director and County Administrator for review and approval.~~

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- C. ~~Upon reinstatement, a second notice (PAN form) shall be furnished to the Personnel Department to restore the employee to the payroll.~~

#### ~~X. RE-EMPLOYMENT (REHIRE) OF A FORMER EMPLOYEE~~

- A. ~~Rehire Defined~~

~~— Reappointment of a former employee after a resignation or separation to any position in the County for which the employee is qualified and for which the employee must compete.~~

~~— An employee is either fully or partially eligible for rehire when no documentation exists on his/her PAN form that prohibits the reemployment of that employee.~~

~~B. Categories of "Rehire"~~

~~1. A Department Head/Constitutional Officer (Department Head) may recommend that an employee not be rehired within that particular Department while that same (recommending) Department Head remains employed as Department Head. The employee may be rehired, however, either within other Departments or when the recommending Department Head leaves the Department Head position.~~

~~2. A Department Head may recommend that an employee never be rehired within that particular Department regardless of whether the Department Head remains employed as Department Head. The employee, however, may be rehired by other Departments.~~

~~3. A Department Head may recommend that an employee never be rehired by the County in any Department at any time.~~

~~— Whichever of the three (3) above listed categories is chosen, it shall be cited in the "remarks" section on the PAN form; e.g., "In accordance with section #25, paragraph X, A 3 and shall be consistent with the conditions listed in paragraph X-C, below, of this section.~~

~~C. Conditions Under Which an Employee May Not Be Rehired.~~

~~A Department Head may recommend not rehiring an employee if:~~

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~~1. An employee is charged with and separated for a group "C" offense as covered by section #3, paragraph III-C of the Personnel Policy Manual. The Department Head may place the employee in a category "1", "2", or "3" status of paragraph "B" of this section.~~

~~2. An employee is charged with and separated for a group "B" offense, as covered by section #3, paragraph III-B of the Personnel Policy Manual. The Department Head may place the employee in category "1" or "2", but not "3" of paragraph "B" of this section.~~



3. ~~An employee is charged with and separated for a group "A" offense as covered by section #3, paragraph III A of the Personnel Policy Manual. The Department Head may place the employee in category "1" but not "2" or "3" of paragraph "B" of this section.~~
4. ~~An employee resigned after receiving written notice of a corrective/adverse action.~~
5. ~~The employee would have been terminated "for cause" had he/she not entered into a termination agreement. The provision of information about the rehire status of such an employee is prohibited to any outside authority or employee not directly involved in the agreement. The PAN form shall be coded in such a way that the rehire status remains confidential.~~

#### ~~D. Conditions Under Which An Employee May Be Rehired~~

~~An employee is eligible fore rehire if:~~

1. ~~The employee was separated during the probationary period and did not violate any County Personnel Policy. Probationary employees who violated a policy shall be treated in accordance with paragraph X C of this section.~~
2. ~~The employee resigns in "good standing". ("Good standing" = an employee who leaves with a satisfactory performance evaluation and has given an acceptable or mutually agreed upon amount of notice).~~

#### ~~E. Disclosure of Non-Rehireable Status~~

1. ~~Information about an employee's separation may be disclosed to a proper authority, only if the employee has been afforded a hearing or opportunity to challenge this information.~~

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2. ~~A Department Head is not obligated to inform an employee that the employee has been placed in a "non-rehire status; the terms and conditions under which an employee is not rehireable are accessible to employees through the Personnel Policy Manual.~~

### ~~XI. DOCUMENTATION OF SEPARATION ACTIONS~~

#### ~~A. General Information~~

- ~~A number of recent court decisions have imposed limitations on the type of information that local governments may document and disclose about the reason~~

for removing an employee. The courts have held that adverse information which impugns an individual's character may be recorded and disclosed only if the employee has been afforded a hearing to challenge this information. Further, the courts have held that the documentation of such information without a hearing may result in the personal liability of local government officials. Thus, County and Deputy County Administrators, Department Heads, Constitutional Officers, and supervisors who document the reasons for removing an employee, without affording that employee a hearing may be required to pay monetary damages to the employee.

**B. Separation of an Employee Who Has no Appeal Rights**

1. Departments will not record the reasons for the involuntary separation of employees who have no appeal rights, e.g., employees who are serving a probationary period, employees who are serving under a temporary appointment and employees who serve at the pleasure of the Board of Supervisors. Departments, however, will record the fact that an involuntary separation has been taken.
2. For an employee whose appointment is terminated during the probationary period, the reasons will indicate only that the employee has been involuntarily separated. "Termination during the probationary period" will be used to document separations of probationary employees regardless of whether the reasons for separation are conduct related.
3. No reasons, explanations, or "remarks" for any separation discussed in this paragraph will be on the PAN form or in the employees Official Personnel File.

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**C. Resignation by Employee**

1. Resignation in "good standing" — when an employee resigns his/her position, no County Government reasons, explanations or "remarks" for these actions will be placed on either the PAN form or the Official Personnel file. The employee's reason for resigning will be documented in the "remarks" section of the PAN form, but only when a written resignation is submitted by the employee.
2. Resignation by an employee after receiving written notice of Corrective/Adverse Action.

~~—— When an employee who has appeal rights resigns after receiving a written notice of proposed corrective or adverse action, Departments will record on the PAN form information showing that the employee resigned after receiving a written notice of the proposed action or a written decision letter (e.g., "resigned after receiving written notice of.....")~~

~~3. Resignation of an employee after receiving oral notice of Corrective/Adverse action:~~

~~—— When an employee who has appeal rights resigns after receiving oral notice of a proposed corrective or adverse action, no Department reason, explanation or "remarks" for the action will be placed on either the PAN form or the employee's Official Personnel Folder. The employee's reason for resigning will be documented on the "remarks" section of the PAN form, but only when a written resignation is submitted by the employee.~~

~~D. Separation of an Employee "For Cause"~~

~~—— When an employee who has appeal rights is separated "for cause" (meaning separated for a violation(s) of County Personnel Policy (policy) as covered by Section #3 of the Policy), Departments will record on the PAN form information showing that the employee was separated "for cause" under a group "A", "B" or "C" offense whichever is/are applicable.~~